LIBRARY
SUPREME COURT, U. S.

Office - Supreme Court, U.S.
FILED
MAR 31 1958
JOHN T. FEY, Clerk

In the Supreme Court

OF THE

United States

OCTOBER TERM, 1957

No. 826

RAYMOND CAINE,
Appellant,

vs.

THE PEOPLE OF THE STATE OF CALIFORNIA,
Appellees.

Appeal from the Appellate Department of the Superior Court of the State of California, in and for the County of San Mateo.

MOTION TO DISMISS.

EUGENE K. KENNEDY,
626 Jefferson Avenue,
Redwood City, California,
Attorney for Appellees.

ROBERT J. COSTELLO,
City Attorney of the City of Redwood City,
AXEL E. CHRISTIANSEN,
Assistant City Attorney of the City of Redwood City,
1020 Middlefield Road, Redwood City, California,
Of Counsel.

Subject Index

	Page
Opinions below	2
Statutes involved	2
Statement	2
Argument	5
I. Appellant has failed to produce any evidence overcoming the presumption in favor of the reasonableness, validity, and constitutionality of the ordinance	6
II. Both the ordinance and the application thereof to appellant are reasonable and consistent with due process of law	8
III. Both the ordinance and the application thereof to appellant are reasonable and consistent with the principle of equal protection of the law	14
Conclusion	19

Table of Authorities Cited

Cases	Pages
Associated Transport v. City of Syracuse, 196 Misc. 1091, 93 N.Y.S. (2d) 423 (appeal dismissed 1951) 107 N.Y.S. (2d) 565	14, 16
Chicago & Alton R. Co. v. Trenbarger, 238 U.S. 67	12
Euclid v. Ambler Realty Co., 272 U.S. 365	7
Ferguson Coal Co. v. Thompson, 343 Ill. 20, 174 N.E. 896	13
Fifth Avenue Coach Co. v. New York, 221 U.S. 467, 55 L. ed. 815, 31 S. Ct. 709	13
Kingston v. Hardt (1936), 18 C.A. (2d) 61	5
McCammon v. City of Redwood City, 149 Cal. App. 2d 421	3, 5, 11
McKinley v. Dalton (1932), 128 C.A. 298	4
Morris v. Duby, 274 U.S. 135, 71 L. ed. 966, 47 S. Ct. 548	12, 13
Powell v. Commonwealth, 127 U.S. 678, 32 L. ed. 253, 8 S. Ct. 992	17
Richter Concrete Corporation v. City of Reading (1956), 136 N.E. (2d) 422	16
Smallwood v. District of Columbia, 57 App. D.C. 58, 17 F. (2d) 210	13
South Carolina etc. v. Barnwell Bros., 303 U.S. 177, 82 L. ed. 734, 58 S. Ct. 510	7, 12
Sproles v. Binford, 286 U.S. 374, 76 L. ed. 1167, 52 S. Ct. 581	12, 15
Times-Mirror Co. v. Superior Court (1935), 3 Cal. (2d) 309	5
Varcoe v. Lee (1919), 180 Cal. 338	4
Whyte v. City of Sacramento (1924), 65 Cal. App. 534	9, 17
Wilbur v. Newton, 16 N.E. (2d) 86	13, 17
Zahn v. Board of Public Works, 274 U.S. 325	7

Codes **Pages**

Vehicle Code, State of California, Section 713 ..... 2, 7, 14, 16

Constitutions

Constitution of the State of California, Article I, Section 21 3

Constitution of the United States, Fourteenth Amendment, Section 1 3

Ordinances

Ordinance 758 of the City of Redwood City, California:
Section 105 ..... 2, 4, 6, 14
Section 105(B) 15
Section 105(C) and (D) 15

Rules

Revised Rules of the Supreme Court of the United States, Rule 16 1

Texts

21 A.L.R. 573 17

McQuillin, Municipal Corporations, Vol. 5 (3rd Ed.) 481 6

In the Supreme Court
OF THE
United States

OCTOBER TERM, 1957

No. 826

RAYMOND CAINE,
Appellant,

vs.

THE PEOPLE OF THE STATE OF CALIFORNIA,
Appellees.

Appeal from the Appellate Department of the Superior Court of the State of California, in and for the County of San Mateo.

MOTION TO DISMISS.

Appellees, pursuant to Rule 16 of the Revised Rules of the Supreme Court of the United States, move that the appeal herein on file from the Appellate Department of the Superior Court of the State of California in and for the County of San Mateo, be dismissed on the ground that it does not present a substantial federal question.

OPINIONS BELOW.

No opinions below are reported.

STATUTES INVOLVED.

This appeal questions the constitutionality of Section 105, Ordinance 758 of the City of Redwood City, California. Section 105 as amended and in effect at the time of appellant's arrest is set forth in an appendix to this motion, marked Appendix "A".

Section 713, Vehicle Code, State of California, expressly granted the city authority to enact Section 105. Vehicle Code, Section 713, in effect at the time of appellant's arrest is set forth in an appendix to this motion, marked Appendix "B".

STATEMENT.

This litigation concerns the constitutionality of Section 105, Ordinance No. 758, of the City of Redwood City, which regulates the operation of trucks of over three-tons gross weight upon certain city streets.

Section 105 was regularly adopted by the city council pursuant to the express authority contained in Section 713 of the Vehicle Code of the State of California to become effective December 15, 1954.

On December 14, 1954, the lessees and operators of the Whipple Road Quarry, a rock quarry located in the unincorporated portion of the County of San Mateo, approximately 1.6 miles west of the westerly city

limits of Redwood City, commenced an action to enjoin the enforcement of the ordinance as void in so far as it regulated the use of Edgewood Road in the city limits by trucks emanating from the quarry. The action was predicated upon the theory that such regulation was contrary to the equal protection and due process of law provisions of Section 1 of the Fourteenth Amendment of the Constitution of the United States and Section 21 of Article I of the Constitution of the State of California. That litigation was finally terminated in favor of the constitutionality of the ordinance and the application thereof to trucks emanating from the quarry by judgment of the District Court of Appeal, State of California, on March 26, 1957. *McCammon v. City of Redwood City,* 149 Cal. App. 2d 421. Petition for rehearing was denied April 25, 1957, and the Supreme Court of the State of California denied a petition for hearing on May 22, 1957.

On June 11, 1957, the present litigation was commenced by the arrest of appellant while driving a truckload of rock having a gross weight in excess of thirteen tons on Edgewood Road in the city limits. The point of origin of the trip was the Whipple Road Quarry outside the city limits and the point of destination was the corner of Main and Bradford Streets in the city limits.

Precisely the same questions of equal protection and due process under the Federal Constitution which were raised in the *McCammon* case, *supra,* were again raised in the instant litigation and on substantially the same facts as were presented in the *McCammon* case.

The present appeal is from the final judgment of the Appellate Department of the Superior Court in and for the County of San Mateo, State of California, which affirmed the judgment of conviction entered against appellant by the Municipal Court of the Southern Judicial District of the County of San Mateo, State of California.

Knowledge of the street system of the City of Redwood City is essential to an understanding of the issues in this case. A map of Redwood City and a portion of the adjoining unincorporated territory showing the location of the Whipple Road Quarry, the destination points of appellant's load, and the point at which the city limits line of the City of Woodside crosses Canada Road, was introduced in evidence as Defendant's Exhibit No. 1. Neither this map nor a copy thereof is available to appellees for inclusion as an appendix to this motion. For the convenience of the Court and because of the errors, inconsistencies and confusion arising from attempts in the Jurisdictional Statement to describe the streets, truck routes, and other matters by compass direction, a map of the city indicating the truck routes designated by Section 105 of the ordinance is set forth in an appendix to this motion, marked Appendix "C".

Courts take judicial notice of all important roads and streets.

McKinley v. Dalton (1932), 128 C.A. 298 at page 303;

Varcoe v. Lee (1919), 180 Cal. 338 at page 347;

Kingston v. Hardt (1936), 18 C.A. (2d) 61, at page 63;

Times-Mirror Co. v. Superior Court (1935), 3 Cal. (2d) 309, 333.

Reference to the map and the ordinance will show that there are a total of twenty-one unlimited truck routes in the city.

The point of origin of appellant's trip was the Whipple Road Quarry which is situated on Edgewood Road in the unincorporated territory of the County of San Mateo, a distance of 1.6 miles southwesterly of the western city limits at the intersection of Cervantes Road and Edgewood Road. The destination point was Main and Bradford Streets within the city limits.

ARGUMENT.

Each and every question raised by appellant in this proceeding relative to the constitutionality of this ordinance and the application thereof to facts such as contained in this action has been presented at length, extensively argued, and fully, completely, and adequately determined by the courts of the State of California in accordance with applicable federal law. *McCammon v. City of Redwood City,* 149 Cal. App. 2d 421.

The principles governing this action have been clearly established by the federal courts in numerous previous decisions. The instant action presents no unique questions and contains no factual material

which would justify a departure from existing federal constitutional construction.

The questions presented by this appeal are extremely narrow. Any decision adverse to the constitutionality of the application of Section 105 to appellant under the facts in this case would be so narrow that it would not constitute a precedent of any value in determining the validity of this or similar legislation.

I.

APPELLANT HAS FAILED TO PRODUCE ANY EVIDENCE OVERCOMING THE PRESUMPTION IN FAVOR OF THE REASONABLENESS, VALIDITY, AND CONSTITUTIONALITY OF THE ORDINANCE.

The presumption in favor of the constitutionality of municipal ordinances is stated in *McQuillin, Municipal Corporations*, Vol. 5 (3rd Ed.) 481, as follows:

> "A municipal ordinance duly enacted under ample grant of power is presumably constitutional and binding. Indeed, in accordance with the rule that constitutionality of ordinances is favored, every presumption is in favor of the constitutionality of an ordinance, and when the constitutional validity of an ordinance or law arises, the limitation is uniformly applied. No ordinance or law will be declared unconstitutional unless clearly so and every reasonable intendment will be made to sustain it. The presumption of the constitutionality of an ordinance continues unless and until it is judicially determined to be unconstitutional. It is presumed that municipal authorities knew the

facts before adopting a police ordinance, where it is asserted that the ordinance contravenes the constitution."

The city's exercise of the police power in this instance was pursuant to the express grant contained in Section 713 of the Vehicle Code of the State of California.

The legislative determination to regulate the operation of motor vehicles upon certain streets, when within the scope of its power, is presumed to be supported by facts known to the legislature in the absence of evidence which precludes that possibility. That is to say, in reviewing the determination of the legislature, the court examines the record not to see whether the findings of the court below are supported by evidence but to ascertain on the whole record whether it is possible to say that the legislative choice is without any rational basis. *South Carolina etc. v. Barnwell Bros.*, 303 U.S. 177, 82 L. ed. 734.

If the validity of the legislative classification or the legislative determination of reasonableness be a debatable question, the legislative judgment must be allowed to control. *Zahn v. Board of Public Works*, 274 U.S. 325; *Euclid v. Ambler Realty Co.*, 272 U.S. 365.

II.

BOTH THE ORDINANCE AND THE APPLICATION THEREOF TO APPELLANT ARE REASONABLE AND CONSISTENT WITH DUE PROCESS OF LAW.

Appellant's complaint that this ordinance causes him inconvenience is admitted. Every exercise of police power causes inconvenience. A similar complaint can just as well be directed to any number of state and local regulations which restrict the trucking industry. For example: speed limits, arterial stop signs, one-way streets, no-parking regulations, no-left-turn regulations, limited access and limited egress to freeways, and many others. All of such regulations are valid, irrespective of extra inconvenience, expense, and even hardship. At the most, appellant has established that under the particular facts in this case it would have been more convenient for him to use certain restricted residential streets and that under such circumstances reasonable minds might differ as to which streets should have been designated truck routes.

What is reasonable is relevant and is dependent on the character and nature of the conditions to be met or overcome. Redwood City is a residential city. The entire area in the vicinity of Edgewood Road, Whipple Avenue, and Brewster Street is zoned exclusively for residential use and the streets therein are built to residential not commercial standards. Applicant claims a vested interest to use any and every street in the city for heavy trucking and challenges the city's right to place any limitation on his use of any route he deems desirable.

Fundamentally it must be recognized that the use of highways for the purpose of travel and transportation by the public is more than a mere privilege and neither the public generally, nor individuals, may be arbitrarily deprived of their right to such use. Notwithstanding such general principle, however, it is equally well established that usage of highways by the public is subject to reasonable regulation as to the manner of use for the general public welfare.

In upholding the validity of legislation restricting trucks exceeding one ton from certain streets in the City of Sacramento, California, the District Court of Appeal of the State of California in *Whyte v. City of Sacramento* (1924), 65 Cal. App. 534, anticipated the need for the action taken by the Redwood City Council in enacting the ordinance here in question, and that opinion, written thirty years ago, is an even more cogent argument now in support of such legislation than it was then. As stated in the *Whyte* case at page 548:

> "The conditions surrounding the use of the streets and highways of the state are vastly different now from what they were prior to the invention and the introduction of the automobile as a factor in the world's economy. It is so well known, as a matter of common and current knowledge, that the courts are forced to take cognizance of the fact that the automobile has become a common method for the transportation, locally, of freight and passengers and for business purposes generally, as well as for the purposes of pleasure. Likewise, it is known that in cities of large populations the streets thereof

often become, or would so become if the traffic thereon were left to the unrestrained liberty of those using such machines, so obstructed and congested as to render those thoroughfares practically useless for any other purpose than that to which they are put by the owners or drivers of such vehicles. In fact, even under proper regulations by the authorities, the use of those machines on the streets and highways of the state is a constant menace to the life and limbs of the people, as well as injurious to the streets and highways. If they were to be permitted to be used upon and over the public streets of the cities in the absence of any compulsory reasonable restraint whatsoever as to the manner of so using them it is readily to be seen that the result would be that the traffic thereon would be such as to impair, if not in some instances actually to prevent, the orderly and convenient transaction of the usual or ordinary business maintained and conducted in the business districts of such city. It is, therefore, proper that the legislative department of the government should take notice of that fact to the end that it may regulate such traffic so as to reduce to the lowest possible minimum the dangers and the inconveniences which naturally are the consequences thereof. Indeed, it is safe to conjecture that the time will come, and not in the far distant future, when even a more drastic regulation of automotive traffic may be required than now, and that the power of police may be drawn on by the state, of whose sovereignty it is an attribute, to accomplish such a result, cannot be doubted."

The controlling consideration prompting the enactment of this ordinance was the desire to avoid un-

reasonable traffic hazards over residential streets which were neither designed for heavy truck traffic nor constructed in a manner sufficient to maintain such traffic without extreme deterioration. In enacting the ordinance, the legislature of the City of Redwood City found as a fact that three-ton gross weight is the maximum load that may reasonably be allowed to pass over certain city streets restricted by the ordinance, taking into consideration the manner of past and present construction and probable future construction, maintenance and repair, conditions of traffic, character of neighborhood, number of adjacent schools, number and width of lanes of traffic, and none of these implied findings are contradicted by any evidence in the record.

As stated by the court in *McCammon v. City of Redwood City*, 149 Cal. App. 2d 421:

> "It should be emphasized that the ordinance does not prevent trucks from the quarry from delivering to any point in the city or elsewhere. However, appellants contend that, as a practical matter, the ordinance has this effect because the increased distance makes the hauling so expensive that it is not economically feasible.
>
> "The justification of the city for the enactment of the ordinance is that none of its streets connecting with Edgewood Road at the point where it enters the city is so constructed as to bear weight in excess of the limitation specified therein. Also, that all of said streets pass through residential areas and the use thereof by heavy trucks constitutes a traffic hazard, particularly as to children." (Page 425.)

> "In the instant case, as we have pointed out, appellants' trucks are not prevented from delivering to any point inside or outside of Redwood City. It is simply that the hauling distance to any point in the general area which is east, south or north of the quarry is thereby increased and results in increased expense. The reasonableness of the ordinance is based upon two factors, light construction of the streets so restricted and the traffic hazard through the residential district involved. In keeping with the principles stated in the Whyte case, *supra*, we hold that the ordinance is a valid exercise of the police power and the statutory authority conferred by section 713 of the Vehicle Code." (Page 427.)

The fact that heavy trucks previously used the streets which have been restricted by this ordinance does not constitute a limitation on the city's power to establish these regulations. A vested interest cannot be asserted against the police power because of conditions once obtaining. *Chicago & Alton R. Co. v. Trenbarger,* 238 U.S. 67, 78.

Legislation of the type here involved has repeatedly and expressly been upheld as reasonable and consistent with due process by the Supreme Court of the United States.

Morris v. Duby, 274 U.S. 135, 71 L. ed. 966, 47 S. Ct. 548;

Sproles v. Binford, 286 U.S. 374, 76 L. ed. 1167, 52 S. Ct. 581;

South Carolina etc. v. Barnwell Bros., 303 U.S. 177, 82 L. ed. 734, 58 S. Ct. 510.

In *Morris v. Duby, supra,* the court at page 144, stated:

> "With the increase in number and size of the vehicles used on a highway, both the danger and wear and tear grow. To exclude unnecessary vehicles, particularly the ones commonly used by carriers for hire, promotes both safety and economy. State regulation of that character is valid even as applied to interstate commerce, in the absence of legislation by the Congress which deals specifically with the subject . . . The mere fact that a truck company may not make a profit unless it can use a truck with a load weighing 22,000 or more pounds does not show that a regulation forbidding it is either unreasonable or discriminatory."

The following cases have also expressly upheld the validity of legislation excluding vehicles from certain streets:

Ferguson Coal Co. v. Thompson, 343 Ill. 20, 174 N.E. 896;

Wilbur v. Newton, 16 N.E. (2d) 86;

Smallwood v. District of Columbia, 57 App. D.C. 58, 17 F. (2d) 210;

Fifth Avenue Coach Co. v. New York, 221 U.S. 467, 55 L. ed. 815, 31 S. Ct. 709.

Appellant's argument as to reasonableness based upon the lack of an alternate route is wholly without foundation. Appellant has several alternate routes available to him both within and without the city limits.

The situation discussed in *Associated Transport v. City of Syracuse*, 196 Misc. 1091, 93 N.Y.S. (2d) 423 (appeal dismissed 1951) 107 N.Y.S. (2d) 565, is in no way comparable to the situation in the instant litigation. Section 713 of the Vehicle Code of the State of California and Section 105 of the ordinance adequately and fully prevent any misuse of authority by the city in any way comparable to that attempted in the *Associated Transport* case. As a reference to the map will show, Redwood City is bisected by three unrestricted state highways. Moreover the ordinance itself provides for twenty-one unlimited truck routes within the city limits.

III.

BOTH THE ORDINANCE AND THE APPLICATION THEREOF TO APPELLANT ARE REASONABLE AND CONSISTENT WITH THE PRINCIPLE OF EQUAL PROTECTION OF THE LAW.

The evils sought to be avoided by the legislature in enacting the ordinance in question consist of the increased traffic hazard to persons and property, the damage to street surfaces, the increased risk of highway injury to children and others, and the interference with normal and necessary traffic flow which inevitably arise as a result of *nonessential use* of the restricted streets by extremely large and heavy trucks.

The classifications established in the ordinance to accomplish this purpose have been found by the legislature to be reasonably related to that end. No evidence is included in the record to contradict these findings.

The general regulation contained in Section 105(B) limits all heavy truck traffic in the city to one or more of twenty-one designated truck routes which provide at least nine points of ingress and egress from the city limits.

The exceptions contained in subdivisions (C) and (D) are designed to permit *limited use* of prohibited streets ***where such use is essential*** to the economic life and general public welfare of the community and the surrounding area.

Without such exceptions the basic regulations would fail as arbitrary. The exceptions, read together, are admirably designed and applied to accomplish the purpose of the legislation by eliminating ***nonessential*** truck traffic from lightly constructed narrow residential streets and routing as much of such traffic as is reasonably possible over wider, safer, and more adequately designed and constructed streets.

The exceptions refer only to local hauls confined to small areas which, being consistently short, greatly reduce the danger of traffic congestion and highway injury incidental to heavy truck transportation. In addition, as stated above, such exceptions are absolutely essential to the continuance of the economic life of the area and are most consistent with the general public interest and welfare.

As stated in *Sproles v. Binford*, 286 U.S. 374, at page 392:

> "We think that the exception, in the light of its context and of its apparent purpose, instead of

being arbitrary relieves the limitation of an application which otherwise might itself be considered unreasonable with respect to the exceptional movements described."

Richter Concrete Corporation v. City of Reading (1956), 136 N.E. (2d) 422, relied upon by appellant, is inapplicable to the present litigation from the standpoint of both fact and law.

The Reading ordinance permitted heavy trucking on only *one street in the entire community*. The Redwood City ordinance contains twenty-one unlimited truck routes. Contrary to the situation in the Reading case, Redwood City is traversed and bisected by three major State highways providing unlimited routes through the city.

In the present action, appellant was hauling from a point outside to a point inside the city limits. He was not engaged in hauling through the city. If we are to accept the analysis of the *Reading* case, appellant would be within the favored class and not within the class of through traffic against which the Reading ordinance was said to discriminate. Under such circumstances, the appellant could not even raise the question of equal protection.

Section 713 of the Vehicle Code assures that no embargo such as attempted in *Associated Transport v. City of Syracuse, supra*, and *Richter Concrete Corporation v. City of Reading, supra*, can possibly occur in the City of Redwood City, traversed and bisected as it is by three major highways.

An ordinance restricting the use of a street by vehicles carrying a load weighing in excess of two tons is not unconstitutional or discriminatory against certain concerns or individuals because they suffer more than others due to a greater use of the street. The injury sustained by those engaged in the business of marketing and transporting sand and gravel by an ordinance restricting use of certain streets to vehicles below a two-ton carrying capacity is insufficient to support a claim of discrimination though such ordinance caused 40% of the concern's trucking to make a four-mile longer haul and suffer other disadvantages with respect to loading, unloading, and waiting time. *Wilbur v. City of Newton,* 16 N.E. (2d) 86. See also cases collected in 21 *ALR* 573.

The ordinance complained of here applies to all persons in the City of Redwood City engaged in using city streets with trucks of a gross weight in excess of three tons. The ordinance does not discriminate against any particular person. All of the class engaged in the described activity within the limits of the city are subject to the terms of the ordinance. In other words, the ordinance imposes no greater burdens upon one of the class mentioned than are laid upon others of the same class or engaged in the same activity under the same conditions. It is settled that when a regulatory ordinance applies to all engaged in one kind of business there is no discrimination. *Powell v. Commonwealth,* 127 U.S. 678, 32 L. ed. 253, 8 S. Ct. 992. As stated in the *Whyte* case, *supra,* at page 550:

> "The classification made by the ordinance, to wit, upon the basis of the weight of the vehicle, the load it carries and the injurious effect thereof upon the streets, involves a real and substantial distinction, 'having a reasonable and just relation to the things in respect to which such classification is imposed.' (*Barbier v. Connolly*, 113 U.S. 27, 31 (28 L. ed. 923, 5 Sup. Ct. Rep. 357, see also, Rose's U.S. Notes).)"

Nothing in the ordinance complained of herein prevents trucks emanating from the Whipple Road Quarry or from any other place inside or outside of the city from delivering to any point inside or outside of the city. Nothing in the ordinance prevents appellant from using Edgewood Road or any other street in the city whether he is hauling from a point outside of the city or inside of the city if it is necessary that Edgewood Road be used to accomplish either pickup or delivery of a load. The ordinance prohibits appellant and every other person regardless of where his place of business is located and regardless of where the point of delivery is located from entering the city with a thirteen-ton truck at any point other than a truck route designated by the ordinance or a state highway. It is clear that appellant is not being treated differently than any other person.

CONCLUSION.

For the reasons set forth above, it is respectfully submitted that the appellant presents no substantial question for the decision of this court, and that the appeal on file herein be dismissed.

Dated, March 24, 1958.

Respectfully submitted,

EUGENE K. KENNEDY,
Attorney for Appellees.

ROBERT J. COSTELLO,
City Attorney of the City of Redwood City,
AXEL E. CHRISTIANSEN,
Assistant City Attorney of the City of Redwood City,
Of Counsel.

(Appendices "A", "B" and "C" Follow.)

Appendix "A"

Section 105. *Truck Routes.* (A) The following streets are hereby declared to be truck traffic routes for the movement of vehicles exceeding a minimum gross weight of three (3) tons hereinafter called "trucks", and the City Manager is hereby authorized and directed to designate such streets by appropriate signs as "Truck Route". Said streets are specifically designated as follows:

1. All of El Camino Real within the corporate limits of Redwood City.

2. All of Bayshore Highway within the corporate limits of Redwood City.

3. All of Main Street within the corporate limits of Redwood City.

4. All of Stafford Street within the corporate limits of Redwood City.

5. All of Industrial Way within the corporate limits of Redwood City.

6. All of Woodside Road within the corporate limits of Redwood City.

7. All of Spruce Street within the corporate limits of Redwood City.

8. All of Harbor Boulevard within the corporate limits of Redwood City.

9. All of Jefferson Avenue between El Camino Real and Pennsylvania Avenue.

10. All of Maple Street between El Camino Real and Main Street.

11. All of Chestnut Street between Main Street and Bayshore Highway.

12. All of Middlefield Road southerly of Main Street.

13. All of Spring Street between Chestnut Street and Douglas Avenue.

14. All of Bay Road from Chestnut Street to Second Avenue.

15. All of Broadway from Chestnut Street to Fifth Avenue.

16. All of Charter Street from Spring Street to Bayshore Highway.

17. All of Fifth Avenue between Broadway and Bayshore Highway.

18. All of Second Avenue from Bay Road to Broadway.

19. All of Douglas Avenue between Bay Road and Broadway and all of Douglas Avenue northerly from Broadway.

20. All of Pennsylvania Avenue between Jefferson Avenue and Maple Street.

21. All of Whipple Avenue between El Camino Real and Bayshore Highway.

(B) No person, firm or corporation shall operate any truck having a gross weight in excess of three (3) tons on any street in the City of Redwood City except

on those streets specified in Section 105(A) hereof and subject to the exceptions hereinafter provided. For the purpose of this ordinance the word "Truck" shall include the words "truck and trailer" or any combination thereof as defined in Section 152 hereof and any commercial vehicle as defined in the Vehicle Code of the State of California.

(C) *Truck Traffic in the City; Outside Origin:*

1. *Outside Destination:* All trucks entering the City for a destination point outside the City shall operate only over a truck route as hereinbefore established.

2. *One Inside Destination Point:* All trucks entering the City for a destination point in the City shall enter the City only on an established truck route and shall proceed only over an established truck route and shall deviate only at the intersection with the street nearest to the destination point. Upon leaving the destination point the deviating truck shall return to the nearest truck route by the shortest route.

3. *Multiple Inside Destination Points*: All trucks entering the City for multiple destination points shall enter the City only on established truck routes, shall proceed only over established truck routes and shall deviate only at the intersection with the street nearest to the first destination point. Upon leaving the first destination point a deviating truck shall proceed to all other destination points by the shortest route. Upon leaving the last destination point the deviating truck shall return to the nearest truck route by the shortest route.

(D) *Truck Traffic in the City; Inside Origin:*

1. *Outside Destination Point*: All trucks on a trip originating in the City and traveling in the City for a destination point outside the City shall proceed by the shortest route to the nearest truck route as herein established.

2. *Inside Destination Points*: All trucks on a trip originating in the City and traveling in the City for destination points in the City shall proceed to such destination points by the shortest route.

(E) Any police officer shall have the authority to require any person driving or in control of any truck on any public street or highway in the City of Redwood City to proceed to any public or private scale available for the purpose of weighing and determining whether this section has been complied with.

(F) Nothing in this section shall be construed as applying to any truck coming from an unrestricted street having ingress and egress by direct route to and from streets on which truck traffic is restricted as herein provided when necessary for the purpose of making pickups or deliveries of goods, wares and merchandise from or to any building or structure located on streets other than truck routes or for the purpose of delivering materials to be used in the actual and bona fide repair, alteration, remodeling or construction of any building or structure upon a street other than a truck route for which a building permit has previously been obtained, or to any vehicle owned by a public utility while necessarily in use

in the construction, installation or repair of any public utility, or to any vehicle which is subject to the provisions of Section 50 and ¼ of the Public Utilities Act, or to any vehicle owned or operated by the City of Redwood City while engaged in the repair, maintenance or construction of streets, street improvements or street utilities.

Appendix "B"

§ 713. *Reduction of weight limits by cities*

WHEN CITIES MAY REDUCE WEIGHT LIMITS. (a) *Powers of cities.* Any incorporated city, or city and county may by ordinance prohibit the use of a street to be described in said ordinance by any commercial vehicle or by any vehicle exceeding a maximum gross weight limit to be specified in the ordinance, except with respect to any vehicle which is subject to the provisions of Section 50¼ of the Public Utilities Act.

(b) *Signs.* No such ordinance shall be effective until appropriate signs are erected indicating either those streets affected by such ordinance or those streets not so affected as such local authority may determine will best serve to give notice of such ordinance.

(c) *Weight limitations less than code provisions.* Except as permitted in this section, no city, or city and county shall have any authority to impose limitations upon the weight of vehicles and loads less than those set forth in this code.

(d) *Highways not under exclusive jurisdiction of city.* No ordinance proposed to be enacted under this section is effective with respect to any highway which is not under the exclusive jurisdiction of the local authority enacting such ordinance, or, in the case of any state highway, until such proposed ordinance has been submitted by the governing body of such local authority to and approved in writing by the Depart-

ment of Public Works. In submitting such a proposed ordinance to the department for approval, the governing body of such local authority shall designate therein, all alternate route or routes for the use of such vehicles which shall remain unrestricted by any local regulation as to weight limits or types of vehicles so long as the ordinance proposed shall remain in effect. The approval of such proposed ordinance by the Department of Public Works shall constitute an approval by the department of such alternate route or routes so designated.

(e) *Commercial vehicles.* No ordinance adopted pursuant to this section shall prohibit any commercial vehicles coming from an unrestricted street having ingress and egress by direct route to and from such restricted streets when necessary for the purpose of making pickups or deliveries of goods, wares and merchandise from or to any building or structure located on such restricted streets or for the purpose of delivering materials to be used in the actual and bona fide repair, alteration, remodeling or construction of any building or structure upon such restricted street for which a building permit has previously been obtained therefor.

(f) *Public utility vehicles.* No ordinance adopted pursuant to this section shall apply to any vehicle owned by a public utility while necessarily in use in the construction, installation or repair of any public utility. (Stats. 1935, c. 27, p. 233, § 713, as amended Stats. 1935, c. 592, p. 1679; Stats. 1945, c. 771, p. 1456, § 1; Stats. 1951, c. 969, p. 2590, § 1.)

Note

Appendix "C" at this point is on Card 3.